

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

LARRY POWELL,)
)
 PLAINTIFF,)
)
 vs.) CASE No. 09-CV-149-JHP-FHM
)
 THE CITY OF VINITA, et al.,)
)
 DEFENDANTS.)

OPINION AND ORDER

The Special Appearance and Motion to Quash [Dkt. 15] has been fully briefed and is before the undersigned for decision.

The motion seeks to quash the subpoena served by Plaintiff on Scott Woodward, Acting United States Attorney, which calls for the production of:

Any and all notes, reports, or other material regarding any investigation or discussion of possible investigation into the conduct of Sgt. James Curry, Officer Kyle Flud (both of the Vinita Police Dept.), and the Vinita Police Dept.

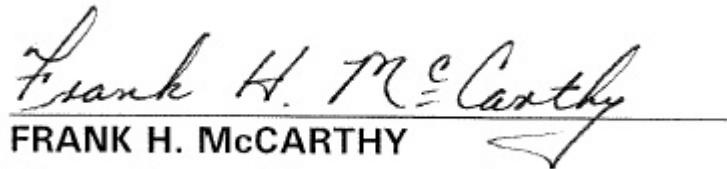
[Dkt. 15-2, p. 1].

Pursuant to 28 C.F.R. § 16.22, Mr. Woodward is prohibited from producing the subpoenaed materials. This type of regulation has been upheld by the Supreme Court, *United States ex rel. Touhy v. Ragen*, 340 U.S. 462 (1951), and the Tenth Circuit Court of Appeals, *United States v. Allen*, 554 F.2d 398 (10th Cir. 1977).

To the extent that Plaintiff contends that the Dept. of Justice has not complied with the regulations concerning production of the materials, Plaintiff's recourse is through the Administrative Procedure Act. *Santini v. Herman*, 456 F.Supp.2d 69 (D.D.C. 2006).

The Motion to Quash [Dkt. 15] is GRANTED.

SO ORDERED this 8th day of September, 2009.


FRANK H. McCARTHY
UNITED STATES MAGISTRATE JUDGE